

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AKIVA AVIKAIDA ISRAEL,
Plaintiff,
v.
RABBI SHMARY, et al.,
Defendants.

No. 2:21-cv-0262-TLN-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. The United States Marshal previously returned process directed to defendant Alex Lainez, who plaintiff alleges was employed as Chaplain/Religious Review Committee Member at Mule Creek State Prison on or around September 2020 to September 2021. The unexecuted summons stated that the California Department of Corrections and Rehabilitation was unable to locate an employee by that name. ECF No. 37.

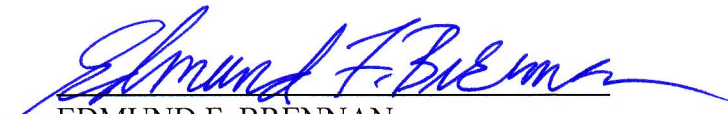
On March 29, 2022, and again on May 3, 2022, the court instructed plaintiff to provide new information for service of process on defendant Lainez, and warned plaintiff that failure to do so or show cause for such failure would result in a recommendation that defendant Lainez be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. ECF Nos. 38 & 43; *see also* Fed. R. Civ. P. 4(m) (service of process must be effected within 90 days of the filing of the complaint unless plaintiff demonstrates good cause). The time for acting has passed and plaintiff has not responded to the court's most recent order.

1 Plaintiff has had several opportunities to submit information about where defendant
2 Lainez can be served and has been warned that Rule 4(m) requires that service of process be
3 effected within 90 days of the filing of the complaint absent a showing of good cause. The time
4 for serving defendant Lainez has expired and plaintiff has failed to demonstrate the requisite good
5 cause to avoid dismissal under Rule 4(m).

6 Accordingly, it is hereby RECOMMENDED that defendant Lainez be dismissed. *See*
7 Fed. R. Civ. P. 4(m).

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, any party may file written
11 objections with the court and serve a copy on all parties. Such a document should be captioned
12 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
13 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
14 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: June 13, 2022.

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17 EDMUND F. BRENNAN
18 UNITED STATES MAGISTRATE JUDGE
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